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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,796	07/12/2001	Charles T. Shotton JR.	032393.0002	7467

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER

NGUYEN, CAM LINH T

ART UNIT PAPER NUMBER

2161

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,796

Applicant(s)

SHOTTON ET AL.

Examiner

CamLinh Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. In view of the Appeal Brief filed on 6/29/2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 22 – 29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

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For a claimed invention to be statutory, the claimed invention must be within the technological art. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological art fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a method claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In *Bowman* (Ex parte *Bowman*, 61 USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished), the board affirmed the rejection under U.S.C. 101 as being directed to non-statutory subject matter. Although *Bowman* discloses transforming physical media into a chart and physically plotting a point on said chart, the Board held that the claimed invention is nothing more than an abstract idea, which is not tied to any technological art or environment.

In the present case, although claims 22 - 29 recite an abstract idea of a method retrieving and analyzing document , and building an agent based on step of analyzing information, however, the language of the claims raise a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101, which can be implemented by the mind of a person

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or by the use of a pencil and paper. In another words, since the claimed invention, as a whole, is not within the technological arts as explained above, these claims only constitute an idea and does not apply, involve, use, or advance the technological arts, thus, it is deems to be directed to non-statutory subject matter.

4. To expedite a complete examination of the instant application the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of application amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 14 – 16, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by "Tracking and Viewing Changes on the Web" by DOUGLIS.

♦ As per claims 14, 21,

DOUGLIS teaches a software agent (w3newer) executable on a local computer for retrieving a changing target content from a target source (changed web page) on a remote computer, comprising:

- "Retrieval means for retrieving a first set of data from a first predetermined data source and a second set of data from a second predetermined data source, said first set of data and said second set of data each being in any one of several possible formats"

corresponds to retrieves pages from WWW, in particular:

- “A first set of data” corresponds to the home pages that the web server sends to client.
- “A first predetermined data source” corresponds to a particular web server that sends data to the client (preferred as first data source).
- “A second set of data from a second predetermined data source” corresponds to the modification data of the page such as time of modification.
- “First set of data in any one of a plurality of possible formats” See page 8, “presentation of the differences”

- “Analyzing means for analyzing said first set of data to select a first subset of data included in said first set of data” corresponds to the w3newer program invoking the htmldiff which can parse an HTML document and rectify certain syntactic problems, such as mismatched or missing markups and run as client-side support in conjunction with the browser) (see pages 8-9, issues and Extensions, and Integrating the tools).

- “Means for displaying said first subset of data and said second subset of data on a display device” See pages 8-9, presentation of the differences and issues and Extensions, and Integrating the tools

♦ As per claim 15 - 16, DOUGLIS discloses:

- “First predetermined data source is an Internet source” (See page 1, Introduction).

Claim Rejections - 35 USC § 103

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 17 – 20, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Tracking and Viewing Changes on the Web" by DOUGLIS in view of Dan Kikinis (U.S. 5,727,159).

♦ As per claims 17 - 18,

DOUGLIS does not clearly disclose, "Display device is a television monitor"

However, Kikinis, on the other hand, discloses a method for viewing web pages using different interface such as television monitor (See Fig. 1, column 4 line 35 - 48, Kikinis).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use different interface as taught by Kikinis for viewing data because the teaching would provide the user for convenience by using different devices for viewing data from the Internet.

♦ As per claim 19, DOUGLIS and Kikinis disclose:

- "Display device is a screen on a web-enabled telephone" See Fig. 1- 2, Kikinis.

♦ As per claim 20, DOUGLIS and Kikinis disclose:

- "Display device is a screen on a PDA" See Fig. 1, column 4 line 35 - 48, Kikinis.

♦ As per claim 25,

DOUGLIS teaches when a periodic task checks the status of a large number of URLs; a number of things can go wrong (pg. 5, first sentence) and that the w3newer program performs checks on URLs (pg. 3). However, DOUGLIS does not teach the program is scheduled. It would be

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obvious to one of ordinary skill in the art at the time of the invention was made that task that perform periodically must be scheduled and therefore that since the program checks for the status of URLs and that this task is performed on a periodically, that the w3newer program is scheduled periodically on the client system.

9. Claims 1 – 2, 10 – 13, 22, 24, 26 - 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Tracking and Viewing Changes on the Web" by DOUGLIS in view of "Unix Network Programming" by Richard Stevens.

♦ As per claims 1, 26 – 28,

DOUGLIS teaches a software agent (w3newer) executable on a local computer for retrieving a changing target content from a target source (changed web page) on a remote computer, comprising:

- "Retrieval means for retrieving a first set of data from a first predetermined data source, said first set of data including a second set of data" corresponds to retrieves pages from WWW, in particular:
 - "A first set of data" corresponds to the home pages that the web server sends to client.
 - "A first predetermined data source" corresponds to a particular web server that sends data to the client (preferred as first data source).
 - "A second set of data from a second predetermined data source" corresponds to the modification data of the page such as time of modification.
- "Analyzing means for analyzing semantics, syntax, or position of said second set of data within said first set of data" corresponds to the w3newer program invoking the htmldiff which can parse

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an HTML document and rectify certain syntactic problems, such as mismatched or missing markups and run as client-side support in conjunction with the browser) (see pages 8-9, issues and Extensions, and Integrating the tools).

DOUGLIS teaches that the w3newer program retrieves and displays the different between 2 documents as in Fig. 1, page 4. This information or data corresponds to the third set of data in the instant application. When the user decides to view the different or the new version of the document, the system is displayed for user that information/data (see page 8, Presentation of the different). This information/data corresponds to the fourth set of data as claimed in the instant application (See Fig. 2 in Page 9).

DOUGLIS does not clearly teach that an agent is built and the agent comprises instruction based on said analyzing data. However, DOUGLIS teaches that the w3newer is invoked by the user, probable by a crontab entry (see page 9, Integrating the tools).

On the other hand, Richard Stevens discloses a robust daemon (or agent) is initialized when the processing started (See page 72 – 73, Daemon Process) using instructions from the computer or user.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Richard Stevens for building such an agent using the information or instructions provided by the user because the teaching would provide an automatic system so that the user does not have to input anything after the request.

♦ As per claim 2, DOUGLIS and Stevens disclose:

- “ Said retrieval, storing, recalling all reside and execute on a single computer device” See page 3, Tracking Modification of DOUGLIS.

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◆ As per claims 11 - 13, DOUGLIS and Stevens disclose:

- "Identifying first, second, third candidates" (see page 7 – 8, DOUGLIS).

◆ As per claim 27, DOUGLIS and Stevens disclose:

" Said second set of data is similar to said fourth set of data" as noted above, there plurality of file can be retrieved from a home page, in which it is similar with the first data file. Because the fourth set of data is the subset of second set data, it must be similar to each other.

◆ As per claim 29, DOUGLIS and Stevens disclose:

DOUGLIS teaches when a periodic task checks the status of a large number of URLs; a number of things can go wrong (pg. 5, first sentence) and that the w3newer program performs checks on URLs (pg. 3). However, DOUGLIS does not teach the program is scheduled. It would be obvious to one of ordinary skill in the art at the time of the invention was made that task that perform periodically must be scheduled and therefore that since the program checks for the status of URLs and that this task is performed on a periodically, that the w3newer program is scheduled periodically on the client system.

10. Claims 3 – 9, 23 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Tracking and Viewing Changes on the Web" by DOUGLIS in view of Unix Network Programming" by Richard Stevens as applied to claims 1 – 2, 10 – 13, 22, 24, 26 - 29 above, further in view of Dan Kikinis (U.S. 5,727,159)

◆ As per claim 3,

DOUGLIS and Stevens do not clearly disclose:

- " Storing means for storing said fourth said of data in a data store in a predetermined storage format"

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DOUGLIS teaches that the snapshot cache is used for storing a copy of the Web page (See the Abstract and page 3, Cache consistency of DOUGLIS).

On the other hand, Kikinis teaches that the data is stored in a predetermined storage format (See Fig. 4, element 99 – 101 of Kikinis).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Kikinis into the combination of DOUGLIS and Stevens because the teaching would provide the user more flexibility in storing data in a different format and provide fast access to these data.

- “Display device is a television monitor” See Fig. 1, column 4 line 35 - 48, Kikinis.

- ◆ As per claims 5 - 6, 10,

- “First set of data includes data about a device state from a home gateway system” See claim 1, first data set.

- ◆ As per claims 7 - 8, 24

- “Display device is a screen on a web-enabled telephone” See Fig. 1- 2, Kikinis.

- ◆ As per claim 9,

- “Display device is a screen on a PDA” See Fig. 1, column 4 line 35 - 48, Kikinis.

- ◆ As per claim 23,

Claim 23 is rejected based on the rejection of claim 1, 11 - 14, and 22- 23.

Response to Arguments

11. Applicant's arguments with respect to claims 1- 29 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024.


The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272 - 4023. The fax phone number for the organization where this application or proceeding is assigned is 571 - 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cam-Linh Nguyen
Art Unit 2171

LN


SAFET METJAHIC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100